1949. **File No.** Irrigation II/49 (N)

K

Legal **DEPARTMENT**

B **BRANCH**

Subject:— Notifications issued under the Bombay Irrigation Act. 1879

P & E

File No. Irrigation II/49 (N)

Std. Sectt. Slip 24 B c.

1 K

Legal Department.

The draft notification as slightly amended at page 17 ante is in order.

Id/- J.R.D. 12/5

Additional Secretary to Government.

U.O. to P.W.D., No.5273, dated the 13th May 1949.

KAN/4-6.
4 c.

NKP 7/6/58.

SGS 7/6/58.

Public Works Department,

Bombay Castle, May 1949.

NOTIFICATION.

Bombay Irrigation Act, 1879.

NO: Whereas it appears expedient to the Government of Bombay that waters of the rivers and streams within the limits specified in the Schedule hereto appended, should be applied and used by Government for the purpose of the projected Mahi Canals.

Now, therefore, in exercise of the powers conferred by section 5 of the Bombay Irrigation Act, 1879 (Bom. VII of 1879), the Government of Bombay is pleased to declare that the said waters will be so applied and used after the day of 1949.

Schedule.

Rivers Mahi and Shedhi including tributaries and streams joining them for the respective water sheds down to the gulf of Cambay in the case of the former, and upto its junction with the Watrak River in the case of the latter.

By order of the Governor of Bombay,

Secretary to Government.

KAN/4-6.
4 c.

Legal Department.

The Public Works Department has confused the powers of Deputy Engineers, as canal officers, under the Act with those of Executive Engineers under rules 23-26 of the Bombay Canal Rules, 1934.

2. As regards the proposal in paragraph (1) of P.W.D.note at page 35, rules 23 to 26 of the Bombay Canal Rules, 1934, which authorize Executive Engineers to charge a rate for using the water unauthorisedly or allowing it to run to waste, are relatable to sections 45 and 46 of the Bombay Irrigation Act, 1879. The offences covered by the vernacular terms (1) 'Bigarpali irrigation', (2, Binerji irrigation and (3) Gairkayada irrigation, as defined at page 37 of the Irrigation Manual, are covered by the expression "used in an unauthorised manner" used in section 45 of the Act. The power of charging a rate in the circumstances specified in these sections have now been given to Mr. Athavale, Deputy Engineer, under P.W.D.notification No.6704/36, dated the 29th November 1948. The only thing now necessary to do is to amend rules 23-26 so as to authorise the Deputy Engineer to exercise those powers in the area within his jurisdiction.

3. As regards the powers under rule 4(6) at p.129 of the Manual, that rule already empowers a canal officer to dispose of panchnamas finally. A canal officer as defined in sec.3(6) of the Act would also include a Dy.Engineer if he has been invested with powers under section 4. Mr.Athavale, having been invested with the powers under section 4 of the Act, can therefore dispose of panchnamas under the said rule 4. No further amendment of the rule is necessary.

4. As regards the proposal at para.(ii) at pp.35 of P.W.D. note, a duty has been enjoined upon Executive Engineers by subsidiary rules 5 and 6 at p.57 of the Irrigation Manual to forward statements in the prescribed forms to the Revenue Authorities for the purpose of recovering water rates etc. The said order may be suitably amended so as to empower Mr.Athavale, Dy. Engineer, within the area of his jurisdiction to submit such return to the Revenue Authorities.

Id/- J.R.D. 19/9
Additional Secretary to Government

U.R. to P.W.D., No. 10668 dated the 21st September 1949.

KAN/4-6.
4 c.

Legal Department.

Two revised draft notifications are sent herewith.

Id/- J.R.D. 26/10

Additional Secretary to Government.

U.R. to P.W.D., No. 11986, dated the 27th October 1949.

KAN/476.
4 c.

Public Works Department,

Bombay Castle, October 1949.

The Bombay Irrigation Act, 1879.

No.4411/36.- Whereas it appears expedient to the Government of Bombay that water of the tributaries on the right Bank of the Bhima River from the point of its junction with the Nira River at Sangam to the outskirts of the town of Pandharpur in the Sholapur District specified in the Schedule hereto amended should be applied and used by Government for the purposes of the Nira Canals.

Now, therefore, in exercise of the powers conferred by section 5 of the Bombay Irrigation Act, 1879 (Bom. VII of 1879), the Government of Bombay is pleased to declare that the said water will be so applied and used after the day * of 1949.

*Note.- The date should be 3 months after the date of the publication of the Notification.

Schedule

as at pp. 203-205 ante

By order of the Governor of Bombay,

Secretary to Government.

KAN/4-6.
4 c.

Public Works Department,

Bombay Castle, October 1949.

The Bombay Irrigation Act, 1879.

No. 4411/36.- Whereas it appears expedient to the Government of Bombay that the water of the Bhima River within the limits from Bhatumbre village down to Sangam village and of its tributaries on the right Bank of the said river specified in the Schedule hereto annexed should be applied and used by Government for the purposes of the Nira Canals.

Now, therefore, in exercise of the powers conferred by section 5 of the Bombay Irrigation Act, 1879 (Bom. VII of 1879,, the Government of Bombay is pleased to declare that the said water will be so applied and used after the day 1949.

Note.-The day should be 3 months after the date of the Publication of the Notification.

Schedule

as at pp. 197-199.

By order of the Governor of Bombay,

Secretary to Government.

KAN/4-6.
4 c.

Legal Department.

In all the three notifications it is proposed to declare that the waters of the river specified including its tributaries and stream joining them should be applied and used by Government for the purpose of the projected canal or tank project specified therein. In R.L.A's opinion No.11683, dated 6th December 1947, it is pointed out that the mere use of the word "tributary" would be vague especially when penalties are contemplated under section 6 read with sections 5 and 3(1)(d) and that it would be better to give particulars of the tributaries or streams by defining their courses and the points at which they join the river. P.W.D. is therefore requested to amend the notifications accordingly. (Vide the similar notifications supplied to P.W.D. under L.D.No.11986, dated 27th October 1949.)

Id/- J.R.D. 4/11

Additional Secretary to Government.

U.R. to P.W.D., No.12451, dated the 4th November 1949.

KAN/4-6.
4 c.

(To be published in Part IV-B of the B.G.G.,.

Public Works Department,
Bombay Castle, September 1949.

NOTIFICATION.

THE BOMBAY IRRIGATION ACT, 1879.

No.4411/36 .....:- Whereas it appears expedient to the Government of Bombay that waters of the river and streams within the limits specified in the Schedule hereto annexed should be applied and used by Government for the purpose of the projected Watrak Canals.

Now, therefore, in exercise of the powers conferred by Section 5 of the Bombay Irrigation Act, 1879 (Bombay VII of 1879) the Government of Bombay is pleased to declare that the said waters will be so applied and used after the
1949.

SCHEDULE.

The Watrak River including tributaries and streams joining them from the respective water sheds down to its junction with the River Meshwa.

By order of the Governor of Bombay,

Secretary to Government.

KAN/4-6.
4 c.